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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,809	11/13/2001	Alison Joan Lennon	169.2218	6108

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EXAMINER	
AVELLINO, JOSEPH E	

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/986,809	LENNON ET AL.	
	Examiner	Art Unit	
	Joseph E. Avellino	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-131* is/are pending in the application.

4a) Of the above claim(s) *1-117* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *118-131* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3/22/04, 4/14/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-131 are presented for examination. The Office acknowledges the election with traverse to Group V, claims 118-131. Claims 1-117 are hereby withdrawn as being drawn to a nonelected invention. Therefore claims 118-131 are examined.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 125-131 are rejected under 35 U.S.C. 101 because they are not limited to tangible embodiments. In view of Applicant's specification, page 8, lines 15-30, the medium is not limited to tangible embodiments, instead as including both tangible embodiments (e.g. semiconductor memory, CD-ROM, etc.) and intangible embodiments (e.g. radio or infrared transmission channels and the Internet or intranets or email transmissions). As such, the claims are not limited to statutory subject matter and are therefore non-statutory.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 120 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The claim does not properly disclose as to the "form of communication" between the devices. For examination purposes it will be determined as modifying the session from the form of the first device to the form of the second device. Correction or clarification is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 118 and 125-131 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (USPN 6,826,613) (hereinafter Wang).

6. Referring to claim 118, Wang discloses a method of transferring a media session from a first device to a second device (i.e. handoff), said method comprising the steps of:

establishing a media session sourced via a media browsing server (i.e. switch) upon a first device (e.g. col. 13, lines 10-13);

actuating a control on the first device to:

transfer to the second device details of the media session (i.e. sending a handoff message to the second device) (col. 13, lines 25-35);

receive from the second device an identification thereof known to the media browsing server (i.e. acknowledgement by the second device that it can handle the request) (col. 13, lines 33-35);

transfer the received identification of the second device to the media browsing server (i.e. send to the switch information regarding updating the routing tables to transfer the session from the first device to the second device) (col. 13, lines 40-45); and

the media browsing server (i.e. switch) terminating an output of the media session to the first device and directing the output of the media session to the second device (col. 13, lines 13-60; Figure 6).

7. Claims 125-131 are rejected for similar reasons as stated above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 119-124 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang in view of Parsons, Jr. et al. (USPN 6,349,337) (hereinafter Parsons).

10. Referring to claim 119, Wang discloses the invention substantively as described in claim 118. Wang does not specifically disclose modifying a quality of service of the media session dependent upon reproduction attributes of the second device. In analogous art, Parsons discloses another system of transferring a media session from a first device to a second device which discloses modifying a quality of service of the media session dependent upon reproduction attributes of the second device (i.e. changing the display attributes and protocols used between the computers and to conform to the system configuration of the second client) (col. 3, lines 35-40). It would have been obvious to one of ordinary skill in the art to combine the teaching of Parsons with Wang since Wang discloses the invention can be used with a plurality of devices, including devices that benefit from being clustered (col. 3, lines 44-45). This would provide motivation to one of ordinary skill in the art to search the art in order to find any

other devices which would benefit from being clustered (i.e. connected in a network), eventually finding the system of Parsons and its novel system of transferring sessions between heterogeneous client computers (e.g. abstract; col. 3, lines 35-40).

11. Referring to claim 120, Wang in view of Parsons discloses the invention substantively as described in claim 19. Wang does not specifically disclose the modifying alters a form of communication between the first device and the second device. In analogous art, Parsons discloses another system of transferring a media session from a first device to a second device which discloses the modifying alters a form of communication between the first device and the second device (i.e. the format of the session is modified to conform to the characteristics of the second device) (col. 3, liens 35-40). It would have been obvious to one of ordinary skill in the art to combine the teaching of Parsons with Wang since Wang discloses the invention can be used with a plurality of devices, including devices that benefit from being clustered (col. 3, lines 44-45). This would provide motivation to one of ordinary skill in the art to search the art in order to find any other devices which would benefit from being clustered (i.e. connected in a network), eventually finding the system of Parsons and its novel system of transferring sessions between heterogeneous client computers (e.g. abstract; col. 3, lines 35-40).

12. Referring to claim 121, Wang discloses the invention substantively as described in claim 118. Wang does not specifically state that a quality of reproduction of the

media session is limited by reproduction attributes of the second device to be no better than those of the first device. In analogous art, Parsons discloses another system of transferring a media session from a first device to a second device which discloses a quality of reproduction of the media session is limited by reproduction attributes of the second device to be no better than those of the first device (i.e. the format of the session is modified from the desktop client with a 1024x768 VGA monitor and RDP protocol format to the laptop computer with a flat panel 11" color display with a resolution of 640x480 and RDP protocol, which is considered either no bettor or of a lower quality than that of the desktop client) (col. 10, lines 23-65). It would have been obvious to one of ordinary skill in the art to combine the teaching of Parsons with Wang since Wang discloses the invention can be used with a plurality of devices, including devices that benefit from being clustered (col. 3, lines 44-45). This would provide motivation to one of ordinary skill in the art to search the art in order to find any other devices which would benefit from being clustered (i.e. connected in a network), eventually finding the system of Parsons and its novel system of transferring sessions between heterogeneous client computers (e.g. abstract; col. 3, lines 35-40).

13. Referring to claim 122, Wang in view of Parsons discloses the invention substantively as described in claim 122. Wang in view of Parsons discloses the situation where a session is modified from a desktop client to a laptop client reproduction, however one of ordinary skill in the art would understand that the user of the Parsons system would then go back to the office where the desktop client is and the

session would revert from the configuration for the laptop client to the desktop client, offering a higher quality of reproduction, however neither Wang nor Parsons disclose using a commercial transaction to enable the modifying, however it is well known that pay services will allow a higher resolution of a movie video or a higher bandwidth for a subscription, which normally requires a fee for use. By this rationale, "Official Notice" is taken that both the concept and advantages of providing for a higher QoS in response to a commercial transaction to enable the modifying is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to modify the teaching of Wang and Parsons to incorporate a commercial transaction to provide a higher quality of service to promote commercial success and generate revenue in response to providing a higher resolution session.

14. Claim 123 is rejected for similar reasons as stated above.

15. Referring to claim 124, Wang discloses the invention substantively as described in claim 118. Wang does not specifically disclose the devices are either a desktop computer, a portable computer, a mobile telephone, or a mobile sound reproduction apparatus. In analogous art, Parsons discloses another system of transferring a media session from a first device to a second device which discloses the devices can be a desktop computer (i.e. desktop client) (col. 10, lines 25-30) and a portable (i.e. laptop) computer (col. 10, lines 49-52). It would have been obvious to one of ordinary skill in the art to combine the teaching of Parsons with Wang since Wang discloses the

invention can be used with a plurality of devices, including devices that benefit from being clustered (col. 3, lines 44-45). This would provide motivation to one of ordinary skill in the art to search the art in order to find any other devices which would benefit from being clustered (i.e. connected in a network), eventually finding the system of Parsons and its novel system of transferring sessions between heterogeneous client computers (e.g. abstract; col. 3, lines 35-40).

Response to Arguments

16. Applicant's arguments filed July 18, 2005 have been fully considered but they are not persuasive.

17. Applicant argues, in substance, that (1) there would be no undue burden with regards to the restriction of groups IV and V.

18. As to point (1) Group IV (i.e. claims 96-104 and 112 to 114) deals with communicating metadata between a user device of a multimedia browsing system and an external device that is not part of the browsing system. This would require searches in at least classes 709/223, 709/226, and 713/201. The elected system deals with transferring a media session from a first device to a second device, which would require a search in classes 709/227, 709/229, and 709/232. These are two completely different systems. While the two searches may be overlapping, they are not believed to be coextensive. By this rationale, the restriction is proper and maintained.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20. Applicant is advised to review Pearce et al. (USPN 6,804,254) specifically Figure 6 and col. 11, lines 42-65 before considering any amendments to the claims.

21. Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in manner, which distinguishes over the prior art. As it is Applicant's right to continue to claim as broadly as possible their invention. It is also the Examiner's right to continue to interpret the claim language as broadly as possible. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection, fails to differentiate in detail how these features are unique. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph E. Avellino whose telephone number is (571) 272-3905. The examiner can normally be reached on Monday-Friday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JEA
August 2, 2005

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